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International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in the absence of the initial report of Eritrea*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. What is the status of the Covenant under domestic law? Can the provisions of the Covenant be invoked before domestic courts? If so, please provide examples of cases in which that was done and with what result. What measures have been taken to ensure compatibility between common, customary and sharia law, and the State party's international human rights obligations? What measures have been taken to increase understanding and awareness of human rights, particularly the rights protected under the Covenant, including through training and education among the judiciary and the general public?

2. Please provide detailed information on the remedies available to victims of violations of rights protected under the Covenant. Please provide information on the implementation of decisions of the relevant human rights bodies, inter alia, the release or early trial of 18 journalists, following the decision in *Dawit Isaak v. Republic of Eritrea* (communication 428/12) by the African Commission on Human and Peoples' Rights. Please report on any plans to ratify the Optional Protocol to the Covenant.

3. Please provide information on the legislative and constitutional framework in the State party concerning the adoption of new laws. Could you confirm whether the 1997 Constitution has entered into force? If it has not entered into force, please explain the plans in that regard and what its status is in the meantime. Please also provide information about the progress made by the Commission that was established to consider drafting a new constitution. Please provide information on the status of the new Civil, Penal, Civil Procedure and Criminal Procedure Codes that were adopted to replace the Transitional Codes. Please report on the progress made in reconvening the National Assembly in accordance with article 31 of the Constitution and standards under international law.

4. Please provide information on the steps taken towards establishing an independent and impartial national human rights institution, in line with the principles relating to the status of national institutions for the protection and promotion of human rights. Please also provide information about any progress in establishing a national mechanism for reporting and follow-up, as a standing government structure (ministerial, interministerial or institutionally separate) that is mandated to coordinate and prepare reports for submission to and engage with international and regional human rights mechanisms.

The fight against impunity and past human rights violations (arts. 2, 6, 7 and 14)

5. Please indicate all measures taken to combat impunity, in particular with respect to past serious human rights violations, such as alleged cases of enslavement, enforced

* Adopted by the Committee at its 123rd session (2–27 July 2018).

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disappearances, extrajudicial killings, torture and rape, including the prosecution of perpetrators and providing victims with adequate remedies.

Public emergencies (art. 4)

6. Please indicate whether any state of emergency has been declared since 1991 and, if so, please specify what areas were affected and for how long; the procedure effectively followed to declare such a state or states of emergency; the rights enshrined in the Covenant that have been subject to derogation; and whether the obligations under article 4 (3), of the Covenant have been observed.

Counter-terrorism measures (arts. 7, 9 and 14)

7. Please provide information on the legislative, administrative and other measures the Government has taken to respond to threats of terrorism and indicate if and how those measures affect human rights safeguards in law and in practice, particularly the rights protected under the Covenant. Please respond to allegations of arbitrary detention, torture, extrajudicial killings and disappearances of members of the Muslim community for their alleged links with terrorist groups.

Non-discrimination and equality between men and women (arts. 2, 3 and 26)

8. Please provide information on all measures taken in law, including comprehensive anti-discrimination legislation, and in practice to ensure protection from all forms of discrimination in the public and private sectors on all grounds protected by the Covenant, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, sexual orientation and gender identity. In particular, please report on the efforts undertaken to ensure the security and integrity of people with HIV/AIDS. Please explain whether same-sex relationships are considered a criminal offence.

9. Please provide information and, where possible, statistical data on: (a) women's status in the political, economic and social life of the State party, including realization of the quota of 30 per cent set out in proclamation No. 86/1996; (b) the levels of employment among women and the proportion of women in decision-making positions in both the private and public sectors; (c) whether women and men receive equal pay for work of equal value in both the private and public sectors; and (d) the literacy and enrolment rates in education for women and girls as compared to those of men and boys. Please also indicate any legislative and other measures, and the impact thereof, taken to address any patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society. Please provide information on the rights of men and women in relation to marriage, divorce and inheritance rights, including under sharia and customary law. Please indicate what measures the State party has taken towards the abolition of polygamy in law and in practice.

Gender-based violence, including domestic violence (arts. 3, 6, 7, 14 and 26)

10. Please provide information on the steps taken to adopt comprehensive legislation to criminalize all forms of physical, psychological, economic and sexual violence against women, including domestic violence and marital rape. Please indicate the measures taken, in law and in practice, to prevent domestic servitude being imposed on women and girls as part of the national service programme. Please describe the measures taken to strengthen efforts to eliminate harmful practices against women, including female genital mutilation and forced marriages of underage girls in practice, in addition to the legal prohibition. Furthermore, please provide information on awareness-raising campaigns conducted to fight violence against women and social stigmatization.

Rape and sexual violence (arts. 6 and 7)

11. Please respond to allegations of gender-specific forms of torture, including the beating of pregnant women to induce abortion and refusing to provide women with the sanitary pads they need as a form of punishment in military training centres, especially in

the Sawa Defence Training Centre, in the army and in detention centres. Please report on allegations of sexual violence against men in detention centres, including torture and rape.

Sexual and reproductive health and rights (arts. 6, 7, 17 and 26)

12. Please clarify the circumstances in which voluntary termination of pregnancy is legally available, including information on any procedural requirements. Please also provide information on the availability and affordability of modern contraceptives.

Right to life (art. 6)

13. Please indicate the national legal standards on the appropriate uses of force and firearms by law enforcement and security forces, and identify the specific laws (or legal precedents) that regulate their use of force. Please comment on whether they are in conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Are law enforcement security forces given indemnity for any use of force? Please provide information on the measures taken to ensure that those standards are respected in practice.

14. What legal safeguards are in place to ensure the protection of the right to life, in particular of civilians, during armed conflict, including the investigation of potential violations?

15. Please indicate which steps have been taken to abolish the death penalty. Please provide information about any imposition of the death penalty and executions, including for crimes of desertion or absence, without leave from the military. Please provide statistical data on the number of individuals on death row, the type of offences they have committed and the conditions of their detention, including the use of solitary confinement. Please indicate whether the State party intends to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (arts. 6, 7, 8, 9 and 10)

16. Please respond to allegations that the use of torture by Eritrean officials has been and remains, both extensive and methodical in civilian and military detention centres. Please provide information on the legislative framework to prevent and combat torture, including the definition of torture and the penalties stipulated in criminal legislation. Please indicate whether the definition of torture covers acts of torture committed by all persons acting in their official capacity, outside their official capacity, or in a private capacity. What mechanisms are in place that allow for prompt, thorough and impartial investigations into allegations of torture and ill-treatment? Please also provide data on the number of (a) investigations; (b) prosecutions; (c) convictions or acquittals; and (d) punishments, and the nature of the sanctions imposed for the act of torture. Please respond to allegations about the use of torture in military and detention centres.

Enforced disappearances and extrajudicial killings (art. 6)

17. Please respond to reports of wide-scale extrajudicial executions and disappearances, especially of those whose loyalty to the authorities is questioned. Please report on the steps taken to investigate allegations of cases of enforced disappearances and extrajudicial killings allegedly committed by governmental actors, particularly the National Security Office. Please indicate what measures the State party has taken to ensure the registration of all detainees in civilian and military detention, both in official and unofficial sites, and to provide information to the relatives of detainees on their whereabouts at all times. What measures have been taken to make sure that all centres of detention are official? In that regard, please provide information on the mechanisms in place to provide reparation to the relatives of disappeared persons. Please provide information on the number of people who have died in the border areas of the State party in an attempt to leave the country. Please respond to allegations regarding the "shoot-to-kill" or "shoot-to-wound" policies targeting persons who attempt to flee the State party illegally.

Arbitrary arrest and detention and the right to a fair trial and the independence of the judiciary (arts. 9 and 14)

18. Please respond to reports about widespread arbitrary arrest and detention, and a lack of due legal process. Please provide information on the permissible grounds for deprivation of liberty and the legal definition of the crimes of treason, espionage, alleged desertion, unauthorized movement or absence, insubordination and asking "inappropriate" questions. Please respond to allegations, according to which an individual can be arrested, detained or be subjected to other punishment on charges of guilt by association for the conduct of a third person, such as a relative, friend or business associate.

19. Please provide information about the basic safeguards for persons who have been arrested, including the right of access to a lawyer and a medical doctor and the right to notify relatives. Please provide information on the measures taken to address instances of unlawful arrest or detention. Please also report on the measures taken to ensure that the procedural rights of persons in the justice system are effectively respected in practice. In that context, please provide detailed information about the rights of detained persons to: (a) be brought promptly before a court; (b) have a meaningful opportunity to challenge the lawfulness of their detention; (c) have prompt access to counsel; and (d) be brought to trial in a reasonable time. Please provide detailed information on the number of cases regarding violations of these rights brought to the relevant courts and the sanctions imposed and enforced with regard to violations of these provisions.

20. Please provide information on the structure and competencies of the judiciary in the State party, particularly the jurisdiction of the military courts and the Special Court. Please elaborate on the legislative framework ensuring the independence, impartiality and transparency of the judiciary and effective access to the judicial system. What specific legislative measures has the State party taken to establish the separation of powers between the legislature, the executive branch and the judiciary, including ensuring that the appointment and removal of judges is in line with the Basic Principles on the Independence of the Judiciary? Please also provide information on the steps taken to ensure access to the courts for persons who cannot afford legal counsel or court fees and provide details on the number and types of cases in which legal aid has been sought, granted and denied in recent years.

Conditions of detention (arts. 6, 7 and 10)

21. Please provide information on the number of prisons, the corresponding prison capacity and the number of detainees, and indicate whether prisons include separate sections for minors and women and for suspects and convicted persons in the State party. Please provide information on the mechanisms in place to monitor conditions of detention and to investigate allegations of torture and ill-treatment. Please also provide data on the number and content of complaints brought to the attention of the State party over the last five years, especially related to the use of underground cells and shipping containers to hold prisoners, hard labour in life-threatening temperatures, lack of food and water or health care and lack of access to sanitary facilities. Please also provide the Committee with statistical data, disaggregated by sex, age and ethnicity on the number of deaths in centres of detention over the previous five years, including the number of cases and causes of death, the number of cases investigated, prosecutions pursued, convictions secured, punishment imposed on offenders and reparations provided to the families of the victims. Please provide information about the access of independent monitoring groups to prisons and detention centres, and about the State party's plans to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Freedom of movement and trafficking in persons (arts. 8 and 12)

22. Please provide information about limitations on the freedom of movement, especially in relation to the national service, including the right to leave and freely return to the State party, and any steps taken to review those limitations. In that regard, please comment on the State party's policies concerning the arrest and reintegration of people who try to leave the country illegally. Please explain the administrative procedure regulating

internal and external movement, including the fees for obtaining identification cards, travel permits and national passports.

23. Please provide information on the measures taken to prevent and combat trafficking in persons, including through the adoption of comprehensive legislation and a national policy in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Please provide disaggregated data on the number of cases of trafficking, investigations and prosecutions, including the nature of the sanctions imposed, and on the measures taken to ensure reparations for victims.

Right to privacy (art. 17)

24. Please explain the legislative framework and practice concerning surveillance and monitoring of the population on the grounds of national security and crime prevention and respond to allegations of mass surveillance of the population by security agents, leading to a general climate of fear and mistrust. Please explain the measures and guarantees employed to ensure that surveillance is in compliance with the provisions of the Covenant, including with the principles of legality, necessity and proportionality.

Freedom of thought, conscience and religion (art. 18)

25. Please comment on allegations of discrimination on grounds of religion. Please provide information on the number of people detained on charges of practising a non-authorized religion or on other grounds related to religion, including the reasons for and duration of the detention. Please provide information on the measures taken to ensure that no individual in the State party will lose his or her citizenship on the basis of religion. Please provide information on the legislative and executive framework regulating the authorization and registration of religious organizations. Please describe the measures taken to ensure that all religious groups, regardless of size or content of belief, are permitted to engage in worship, erect places of worship and enjoy the other privileges normally accorded to such groups. Please explain the steps taken to ensure that registration of religious organizations is based on clear and objective criteria that are compatible with the rights protected by the Covenant, especially with respect to the requirements regarding the origin of funding and recognition of the Government in the registration process. Following previous statements made by the Ministry of Information and the Ministry of Religious Affairs, please update the Committee on the authorization and official recognition of the Episcopal Church, the Seventh Day Adventist Church, the Faith Mission Church and other religious organizations that have met the registration criteria.

Military and national service programmes (arts. 6, 8 and 18)

26. Please provide information on the extent of military and national service programmes. Is such service compulsory? For what period? Please respond to allegations that the prolonged military service is de facto indefinite. Please indicate the steps that have been taken to limit in actual practice the duration of national service to 18 months and to recognize the right to conscientious objection. Please provide information on the number of deaths that have occurred during military/national service training and their causes, including disease, use of force by the authorities, or the living conditions. In that regard, please provide statistical information disaggregated by training centre or camp, gender, age and cause of death. Please provide information about an independent system of monitoring military and national service training centres.

Freedom of expression (art. 19)

27. Please provide statistical data on the number of independent media platforms in the State party and on the availability of and accessibility to independent national and international media. Please provide detailed information on the registration requirement for Internet users in Internet cafes, the monitoring of private use of the Internet by the Government and the limitations of access to the Internet, including permanently blocked web pages. Please report on any efforts by the State party to establish private media institutions and reinstate the licences of all independent newspapers. Please comment on

allegations that journalists, editors and human rights defenders are exposed to intimidation, physical violence and arbitrary arrest to silence the opposition in the State party, and that owing to the general climate of fear of reprisals, journalists engage in self-censorship to, inter alia, avoid any form of reprisal.

Freedom of assembly and association (arts. 21 and 22)

28. Please provide information on the legislative and regulatory framework regarding the right of peaceful assembly and of association, including information on any limitations. Please provide information on the legislative and executive framework with regard to the establishment of independent trade unions and non-governmental organizations, including limitations regarding the nature of the work of regional and non-governmental organizations.

Protection of minors (art. 24)

29. Please indicate the steps taken to ensure that children who are not in school are provided with adequate identification documents to protect them from arbitrary arrest or conscription, including through *giffas*. Please comment on allegations that minors are being recruited for national/military service and the militarization of education in that regard. Please also provide information on the measures taken to ensure the effective enforcement of the legal prohibition of corporal punishment, particularly within the military service. Please provide information on the progress made to establish separate correctional facilities for minors and the measures taken to ensure access to adequate food, water and sanitary services. In that regard, please provide detailed information on the number of minors in detention facilities, including the reason for and the duration of their detention.

Participation in public affairs and the right to vote and to be elected (art. 25)

30. Please provide information on the current governmental structure of the State party. Please indicate the progress made in organizing elections and report on any factors obstructing the process. Please provide detailed information on the legal framework regulating the right to participate in public affairs, the right to vote and the right to be elected at a local and national level, and on guarantees that any derogations to those rights are in compliance with the Covenant. Please indicate the steps that have been taken to remove the prohibition on the establishment of political parties and indicate the progress made on establishing a functioning and independent parliament.